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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,608	07/25/2001	Akira Ishizaki	018912-159	3466
7590 03/30/2004			EXAMINER	
Platon N. Mandros BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. Box 1404 Alexandria, VA 22313-1404			WEINSTEIN, STEVEN L	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary	Application No. 09/911,608	Applicant(s) ISHIZAKI, AKIRA	
	Examiner Steven L. Weinstein	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's election without traverse of Group I, claims 1-8 in the response filed 8/28/03 is acknowledged. Accordingly, claims 9-13 are withdrawn from further consideration as being drawn to nonelected inventions.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of the prior art in view of Barnes et al (4,848,579), further in view of Garwood (4,840,270), Bergstrom (3,561,668), Risler (4,656,042) , and Bostrom (3,070,275).

In regard to claim 1, applicant's admission of the prior art as found on page 1 of the specification, discloses it was conventional to provide a method for providing seasonings for box lunches comprising the steps of preparing a lunch box which is made of resin and is composed of a body and a lid and putting a seasoning in the box. Claim 1 differs from applicant's admission of the prior art in that rather than placing a small bag of seasoning in the lunch box, the seasoning is placed in a recess which is formed in either the body of the box or the lid and the recess is sealed by welding a top sealing film on top of the walls enclosing the recess. As evidenced by Barnes et al, it is well established to provide a main food in the body of a container and place a second food (that is to be associated with the main food at the time of consumption) in a recess in the lid and seal a sealing film to enclose the recess. Garwood, Bergstrom, Risler and Bostrom can be relied on as further evidence of associating a second product to be packaged with the lid rather than placing it directly in the container. To modify applicant's admission of

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the prior art and substitute one conventional method of packaging a second content for another conventional method of packaging a second content for its art recognized and applicants intended function would therefore have been obvious. In regard to claim 7, which recites the kind of seasoning is selected dependent on the kind of box lunch provided, one would obviously combine compatible food substances, which, of course, is also a matter of personal taste. That is, one is not likely to combine ketchup with a tuna fish sandwich unless ones taste is not typical.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 7 above, and further in view of Waldburger (4,328,254).

Claim 8 recites that the box lunches are selected for particular categories of people, e.g. people who are on diets or people who are on special diets due to illness/disease. Applicant's admission of the prior art found on page 1 of the specification discloses it is conventional to supply box lunches with food components geared to these categories of people and in the proper rates. Waldburger is relied on as further evidence of providing food in the proper proportions and special diets (col. 2, para. 6).

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wigoda (4,655,026).

Claims 2-5 differ from the combination in that a computer is used to input the kind of lunch and food and select the kind of seasoning which matches the inputted data, the amount of food (claim 3) and the printing of the name of the food on the top sealing film. That is, claims 2-5 recite an automatic, computer controlled way of performing the prior art method disclosed by applicant. As evidenced by Wigoda, it was well established in the packaging art to use a computer system to determine what elements out of a large variety of elements (e.g. medications)

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were to be packaged, packaging those elements by computer control and then employing the computer to direct printing the description of the contents and other indicia on the flexible covering film. Once it was known to employ a computer for packaging controlling content selection, content quantity, and the printing of indicia; to modify the combination and employing a computer to select, packaging and print the conventional box lunches for its art recognized and applicant's intended function is seen to have been obvious in view of the art taken as a whole.

The remainder of the references cited on the US PTO 892 forms are cited as pertinent art.

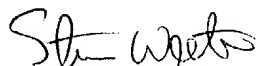
Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (571) 272-1410. The examiner can generally be reached on Monday-Friday 7:00am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (571) 272-1201.

S. Weinstein/af

March 17, 2004


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
3/24/04